ORDINANCE NO. 792

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON REPEALING IN ITS ENTIRETY CHAPTER 12.40 IMPACT FEES FOR TRANSPORTATION AND ADDING A NEW CHAPTER TO TITLE 3 REVENUE AND FINANCE, CHAPTER 3.80 IMPACT FEES FOR TRANSPORTATION TO THE SHORELINE MUNICIPAL CODE, AND AMENDING SECTION 20.40.235(C)(5) TO REFLECT THIS ACTION.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance No. 690 establishing Shoreline Municipal Code Chapter 12.40 Impact Fees for Transportation within Title 12 Streets, Sidewalks and Public Places; and

WHEREAS, on July 31, 2017, the Shoreline City Council adopted Ordinance No. 786 establishing Shoreline Municipal Code Chapter 3.70 Impact Fees for Parks within Title 3 Revenue and Finance; and

WHEREAS, the Shoreline Fire Department has requested that the City implement a fire impact fee which, if adopted, would be established in Shoreline Municipal Code Chapter 3.75 Impact Fees for Fire within Title 3 Revenue and Finance; and

WHEREAS, Impact Fees for Transportation should be moved to Title 3 Revenue and Finance to ensure all impact fees are contained within a single location of the Shoreline Municipal Code; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and considered the proposed amendments at its regularly scheduled meetings on October 30, 2017;

THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASINGTON DO ORDAIN AS FOLLOWS:

Section 1. Repeal for SMC Chapter 12.40 Impact Fees for Transportation. Shoreline Municipal Code 12.40 Impact Fees for Transportation is REPEALED in its entirety.

Section 2. Amendment to Title 3 Revenue and Finance. A new chapter, Chapter 3.80 *Impact Fees for Transportation,* is added to Title 3 as set forth in Exhibit A to this Ordinance.

Section 3. Amendment to SMC 20.40.235(C)(5). Section 20.40.235(C)(5) is amended as follows:

5. Depending on the level of affordability, units provided by a not for profit entity may be eligible for transportation impact fee waivers as provided in SMC ~~12.40.070(G)~~ 3.80.070(G).

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 6. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days from publication.

PASSED BY THE CITY COUNCIL ON NOVEMBER 20, 2017

Mayor Christopher Roberts

ATTEST:

Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

Margaret King
City Attorney

Date of Publication: November 24, 2017
Effective Date: November 29, 2017

Chapter 3.80

IMPACT FEES FOR TRANSPORTATION

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3.80.010 Authority and incorporation by reference.

A. Pursuant to RCW 82.02.050 through 82.02.100, the city adopts impact fees for transportation.

B. The rate study "Rate Study for Impact Fees for Transportation," City of Shoreline, dated April 24, 2014 ("rate study") documents the extensive research concerning the procedures for measuring the impact of new developments on public transportation facilities. The rate study, city clerk's Recording Number 7688, is fully incorporated by reference.

C. The council adopts this chapter to assess impact fees for transportation. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in providing for the assessment of impact fees.

3.80.020 Definitions.

For purposes of this chapter, if not defined below, the definitions of words and phrases set forth in SMC 1.05.050, Chapter 20.20 SMC, and RCW 82.02.090 shall apply to this chapter or they shall be given their usual and customary meaning.

"Applicant" is any person, collection of persons, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation obtaining a building permit. "Applicant" includes an applicant for an impact fee credit.

"Building permit" means written permission issued by the city empowering the holder thereof to construct, erect, alter, enlarge, convert, reconstruct, remodel, rehabilitate, repair, or change the use of all or portions of a structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

"Capital facilities plan" means the capital facilities element of the city's comprehensive plan adopted pursuant to Chapter 36.70A RCW and such plan as amended.

"Director" means the director or designee of the department of public works.

"Encumbered" means to reserve, set aside, or otherwise earmark impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for system improvements.

"Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for transportation facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for transportation facilities, that is a proportionate share of the cost of the transportation facilities, and that is used for facilities that reasonably benefit the new development. An impact fee does not include a reasonable permit fee or application fee. An impact fee does not include the administrative fee for collecting and handling impact fees or the fee for reviewing independent fee calculations.

"Impact fee account" means the separate accounting structure within the city's established accounts which shall identify separately earmarked funds and which shall be established for the impact fees that are collected. The account shall be established pursuant to SMC 3.80.110, and shall comply with the requirements of RCW 82.02.070.

"Independent fee calculation" means the impact fee calculation, studies and data submitted by an applicant to support the assessment of a transportation impact fee other than by the use of the rates published in SMC 3.01.015(A), or the calculations prepared by the director where none of the fee categories or fee amounts in SMC 3.01.015 accurately describe or capture the impacts on transportation facilities of the development authorized by the building permit.

"Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

"Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

"Transportation facilities," for purposes of this chapter, means the public streets and roads owned or operated by the city of Shoreline or other governmental entities.

"Rate study" means the "Rate Study for Impact Fees for Transportation," City of Shoreline, dated April 24, 2014.

"Street or road" means a public right-of-way and all related appurtenances, such as curb, gutter, sidewalk, bicycle lanes and other components of complete streets, and required off-site mitigation, which enables motor vehicles, transit vehicles, bicycles, and pedestrians to travel between destinations.

"System improvements" means transportation facilities that are included in the city's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

3.80.030 Establishment of service area.

A. The city hereby establishes, as the service area for impact fees, the city of Shoreline, including all property located within the corporate city limits.

B. The scope of the service area is hereby found to be reasonable and established on the basis of sound planning and engineering principles, and consistent with RCW 82.02.060, as described in the rate study.

3.80.040 Impact fees methodology and applicability.

The transportation impact fees in SMC 3.01.015 are generated from the formulae for calculating transportation impact fees set forth in the rate study. Except as otherwise provided for independent fee calculations in SMC 3.80.060, exemptions in SMC 3.80.070, and credits in SMC 3.80.080, all building permits issued by the city will be charged impact fees applicable to the type of development listed in the fee schedule adopted pursuant to SMC 3.01.015.

3.80.050 Collection of impact fees.

A. The city shall collect impact fees for transportation, based on the rates in SMC 3.01.015, from any applicant seeking a building permit from the city unless specifically exempted in SMC 3.80.070.

B. When an impact fee applies to a building permit for a change of use of an existing building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee paid for the immediately preceding use. The preceding use shall be determined by the most recent legally established use based on a locally owned business license and development permit documents.

1. For purposes of this provision, a change of use should be reviewed based on the land use category provided in the rate study that best captures the broader use or development activity of the property under development or being changed. Changes of use and minor changes in tenancies that are consistent with the general character of the building or building aggregations (i.e., "industrial park," or "specialty retail"), or the previous use, shall not be considered a change of use that is subject to an impact fee.

2. If no impact fee was paid for the immediately preceding use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the immediately preceding use.

3. If the calculated impact fee is a negative amount, the applicant will not be required to pay impact fees nor will the applicant be compensated by the city for a negative impact fee.

C. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use, based on the applicable measurement in the impact fee rates in SMC 3.01.015.

D. Impact fees shall be determined at the time the complete application for a building permit is submitted using the impact fees then in effect. Impact fees shall be due and payable before the building permit is issued by the city.

E. Applicants allowed credits prior to the submittal of the complete building permit application shall submit, along with the complete application, a copy of the letter prepared by the director setting forth the dollar amount of the credit allowed.

F. Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or 18 months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

1. An applicant for deferral must request the deferral no later than the time of application for a building permit. Any request not so made shall be deemed waived.

2. For the purposes of this deferral program, the following definitions apply:

a. "Applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

b. "Single-family residence" means a permit for a single-family house as set forth in SMC 3.01.015(A) ITE Code 210.

3. To receive a deferral, an applicant must:

a. Submit a deferred impact fee application and acknowledgment form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees;

b. Pay the applicable administrative fee;

c. Grant and record at the applicant's expense a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:

i. Includes the legal description, tax account number, and address of the property;

ii. Requires payment of the impact fees to the city prior to final inspection or 18 months from the date of original building permit issuance, whichever occurs first;

iii. Is signed by all owners of the property, with all signatures acknowledged as required for a deed and recorded in King County;

iv. Binds all successors in title after the recordation; and

v. Is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

4. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

5. Prior to final inspection or 18 months from the date of original building permit issuance, the applicant may pay the deferred amount in installments, with no penalty for early payment.

6. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

7. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

8. If impact fees are not paid in accordance with the deferral and in accordance with the term provisions established herein, the city may institute foreclosure proceedings in accordance with Chapter 61.12 RCW.

9. Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 21 single-family residential construction building permits.

10. The city shall collect an administrative fee from the applicant seeking to defer the payment of impact fees under this section as provided in SMC 3.01.015(B).

3.80.060 Independent fee calculations.

A. If, in the judgment of the director, none of the fee categories set forth in SMC 3.01.015 accurately describes or captures the impacts of a new development on transportation facilities, the director may conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the applicant.

B. An applicant may opt not to have the impact fees determined according to the fee structure in SMC 3.01.015, in which case the applicant shall prepare and submit to the director an independent fee calculation for the development for which a building permit is being sought. The

documentation submitted shall show the basis upon which the independent fee calculation was made. An independent fee calculation shall use the same methodology used to establish impact fees adopted pursuant to SMC 3.01.015, shall be limited to adjustments in trip generation rates and lengths for transportation impact fees.

C. There is a rebuttable presumption that the calculations set forth in the rate study are valid. The director shall consider the documentation submitted by the applicant, but is not required to accept such documentation or analysis which the director reasonably deems to be inapplicable, inaccurate, incomplete, or unreliable. The director may require the applicant to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations therefor shall be set forth in writing and shall be mailed to the applicant.

3.80.070 Exemptions.

Except as provided for below, the following shall be exempted from the payment of all transportation impact fees:

A. Alteration or replacement of an existing residential structure that does not create an additional dwelling unit or change the type of dwelling unit.

B. Alteration or replacement of an existing nonresidential structure that does not expand the usable space or change the existing land use as defined in the land use categories as set forth in the impact fee analysis land use tables.

C. Miscellaneous improvements which do not generate increased need for transportation facilities, including, but not limited to, fences, walls, residential swimming pools, and signs.

D. Demolition or moving of a structure.

E. Properties that have undergone prior State Environmental Policy Act (SEPA), Chapter 43.21C RCW, review and received a final decision that includes mitigation requirements on the condition that the SEPA mitigation obligation has or will be fulfilled by the time the impact fees, if applicable, would be due.

F. Any development that creates insignificant and/or temporary additional impacts on any transportation facility, including, but not limited to:

1. Home occupations that do not generate any additional demand for transportation facilities;

2. Special events permits;

3. Temporary structures not exceeding a total of 30 days.

G. Low-income housing provided by a non-profit entity. "Low-income housing" means housing with a monthly housing expense that is no greater than 30 percent of 60 percent of the median family income adjusted for family size for the county where the project is located, as reported by the United States Department of Housing and Urban Development. As provided in RCW 82.02.060, a nonprofit entity, as defined in RCW 84.36.560(7)(f), as amended, shall be entitled to an exemption of impact fees under the following conditions:

1. The developer/applicant shall execute and record a covenant that prohibits using the property for any purpose other than for low-income housing except as provided within this subsection;

2. The covenant shall, at a minimum, address price restrictions and household income limits for the low-income housing;

3. The covenant shall run with the land and apply to subsequent owners and assigns;

4. The covenant must state that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion;

5. Any claim for an exemption for low-income housing must be made no later than the time of application for a building permit;

6. Any claim for an exemption for low-income housing not made shall be deemed waived;

7. The developer/applicant or any subsequent property owner shall file a notarized declaration with the city manager as provided in SMC 3.27.080(A), as amended, within 30 days after the first anniversary of the date of issuance of the building permit and each year thereafter.

Covenants shall be recorded with the applicable county auditor or recording officer.

H. Community-Based Human Services Agencies. Development activities of community-based human services agencies which meet the human services needs of the community such as providing employment assistance, food, shelter, clothing, or health services for low- and moderate-income residents may be entitled to an exemption of impact fees under the following conditions:

1. An applicant for an exemption must request the exemption no later than the time of application for a building permit. Any request not so made shall be deemed waived.

2. To be eligible for an exemption, the applicant shall meet each of the following criteria:

a. The applicant must have secured federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

b. The applicant must provide services and programs to those considered most vulnerable and/or at risk, such as youth, seniors, and those with financial needs, special needs and disabilities and be responsive to the variety of cultures and languages that exist in the city.

c. The applicant shall certify that no person shall be denied or subjected to discrimination in receipt of the benefit of services and programs provided by the applicant because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability.

d. The applicant must provide direct human services at the premises for which the applicant is seeking exemption.

3. The city manager, or designee, shall review application for exemptions pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. The determination of the city manager shall be the final decision of the city with respect to the applicability of the community-based human services exemption.

4. Prior to issuance of building permit, the applicant shall execute and record a covenant with the King County recorder's office at the applicant's sole expense. The covenant shall prohibit using the property for any purpose other than community-based human services for a period of 10 years; shall run with the land and apply to subsequent owners and assigns; and must state that if the property is converted to a use other than human services, the applicant must pay the applicable impact fees in effect at the time of conversion.

5. The amount of impact fees not collected from human services agencies pursuant to this exemption shall be paid from public funds other than the impact fee account.

I. Businesses – Exemption. A business building permit applicant shall receive an exemption of impact fees under the following conditions:

1. To be eligible for an exemption, an applicant shall meet the following criteria:

a. Qualify as a "business" based on the following Institute of Transportation Engineers (ITE) code categories:

ITE Code	**Land Use Category/Description**
110	Light industrial
140	Manufacturing
310	Hotel
320	Motel
444	Movie theater
492	Health/fitness club
565	Day care center
710	General office
720	Medical office
820	General retail and services (includes shopping center)
841	Car sales
850	Supermarket
851	Convenience market – 24 hour

ITE Code	Land Use Category/Description
854	Discount supermarket
880	Pharmacy/drugstore
912	Bank
932	Restaurant – sit down
934	Fast food
937	Coffee/donut shop
941	Quick lube shop
944	Gas station
948	Automated car wash

b. If none of the ITE fee categories in subsection (I)(1)(a) of this section accurately describes or captures a new business, the director shall determine the applicable ITE fee category and whether that ITE category is the type of business intended to be eligible for exemption under this section.

2. The amount of impact fees not collected from businesses pursuant to this exemption shall be paid from public funds other than the impact fee account.

3.80.080 Credits for dedications, construction of improvements, and past tax payments.

A. An applicant may request that a credit or credits for impact fees be awarded to him/her for the total value of system improvements, including dedications of land and improvements, and/or construction provided by the applicant. The application for credits shall be presented by the applicant on forms to be provided by the director and shall include the content designated in such forms. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan;

2. Determined by the city to be at suitable sites and constructed at acceptable quality;

3. Serve to offset impacts of the development authorized by the applicant's building permit; and

4. Part of one or more of the projects listed in Table 1 of the rate study as the basis for calculating the transportation impact fee, however frontage improvements for those projects are not eligible for credits unless the director determines that the frontage improvements will not be replaced or significantly changed when the project is constructed.

B. For credits for dedications of real property, the procedures of SMC 2.60.090 shall be followed if applicable. If the procedures of SMC 2.60.090 are not applicable, the following procedures shall be followed:

1. For each request for a credit or credits, the director shall select an appraiser or, in the alternative, the applicant may select an independent appraiser acceptable to the director.

2. Unless approved otherwise by the director, the appraiser must be a member of the American Institute of Appraisers and be licensed in good standing pursuant under Chapter 18.40 RCW et seq. in the category for the property to be appraised, and shall not have a fiduciary or personal interest in the property being appraised.

3. The applicant shall pay the actual costs for the appraisal and an independent review, if required.

4. After considering the appraisal the director shall provide the applicant with a written determination setting forth the dollar amount of any credit, the reason for the credit, a description of the real property dedicated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such determination accepting the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days of the date of the determination shall nullify the credit. If credit is denied, the applicant shall be notified in a letter that includes the reasons for denial.

5. No credit shall be given for project improvements.

C. An applicant may request a credit for past tax for past payments made for the particular system improvements listed in the rate study as the basis for the impact fee. For each request for a credit for past payments the applicant shall submit receipts and a calculation of past payments earmarked for or proratable to the particular system improvement for which credit is requested. The director shall determine the amount of credits, if any, for past payments for system improvements.

D. Any claim for credit must be received by the city prior to issuance of the building permit. The failure to timely file such a claim shall constitute an absolute bar to later request any such credit.

3.80.090 Adjustments for future tax payments and other revenue sources.

Pursuant to and consistent with the requirements of RCW 82.02.060, the rate study has provided adjustments for future taxes to be paid by the development authorized by the building permit which are earmarked or proratable to the same new transportation facilities which will serve the new development. The impact fees in SMC 3.01.015 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund transportation improvements.

3.80.100 Establishment of impact fee accounts.

A. The city shall establish a separate impact fee account for the transportation impact fees collected pursuant to this chapter. Funds appropriated or otherwise withdrawn from the impact fees received must be used in accordance with the provisions of this chapter and applicable state law. Interest earned on the fees shall be retained in the accounts and expended for the purposes for which the impact fees were collected.

B. On an annual basis, the director or designee shall provide a report to the council on the impact fee accounts showing the source and amount of all moneys collected, earned, or received, and the transportation improvements that were financed in whole or in part by impact fees.

C. Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reasons for the city to hold the fees beyond the 10-year period, pursuant to RCW 82.02.070(3).

3.80.110 Refunds and offsets.

A. If the city fails to expend or encumber the impact fees within 10 years of the date the fees were paid, unless extraordinary or compelling reasons are established pursuant to this section, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

B. The city shall notify potential claimants of the refund by first-class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant must be the current owner of record of the real property against which the impact fees were assessed.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the system improvements for which they were collected.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this chapter. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the transportation facilities for which the impact fees were collected. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development for which the impact fees were imposed did not occur; provided, however, that, if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the director may decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar building

permit, the owner can petition the director for an offset in the amount of the fee originally paid and not refunded. The petitioner must provide receipts of impact fees previously paid for a building permit of the same or substantially similar nature on the same real property or some portion thereof. The director's determinations shall be in writing and shall be subject to the appeals procedures set forth in SMC 3.80.140.

3.80.120 Use of impact fees.

A. Pursuant to this chapter, impact fees:

1. Shall be used for system improvements that will reasonably benefit the new development authorized by the building permit;

2. Shall not be imposed to make up for deficiencies in transportation facilities; and

3. Shall not be used for maintenance or operation.

B. Impact fees may be spent for system improvements including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

C. Impact fees may also be used to recoup system improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of system improvements for which impact fees may be expended, such impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this chapter.

3.80.130 Review and adjustment of rates.

A. The fees and rates set forth in the rate study may be reviewed and adjusted by the council as it deems necessary and appropriate in conjunction with the annual budget process so that adjustments, if any, will be effective at the first of the calendar year subsequent to budget period under review.

B. Annually, and prior to the first day of January, the director shall adjust the fees at a rate adjusted in accordance with the Washington Department of Transportation's Construction Cost Indices (CCI). The city shall utilize a three-year CCI average, using the three most recent calendar years' CCI available data, to determine adjustments to the impact fees.

3.80.140 Appeals.

Determinations and decisions by the director that are appealed by an applicant shall follow the procedures for a Type B administrative decision as set forth in Chapter 20.30 SMC, Subchapter 4.

3.80.150 Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring the applicant or the proponent of a development authorized by a building permit to mitigate adverse environmental impacts of a

specific development pursuant to the SEPA, Chapter 43.21C RCW, based on the environmental documents accompanying the building permit process, and/or Chapter 58.17 RCW, governing plats and subdivisions. Compliance with this chapter or payment of fees under this chapter shall not constitute evidence of a determination of transportation concurrency. Such mitigation shall not duplicate the impact fees charged under this chapter.